

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington DC 20554

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In the Matter of )  
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 Amendment of Part 74 )  
 of the Commission's Rules )  
 With Regard to the )  
 Instructional Television Fixed )  
 Service )

FEDERAL COMMUNICATIONS COMMISSION  
 OFFICE OF THE SECRETARY

MM Docket No. 93-24

To: The Commission

**REPLY COMMENTS**

Hispanic Information and Telecommunications Network, Inc., ("HITN"), by its counsel, hereby submits its Reply Comments with respect to the above-referenced proceeding.<sup>1</sup> HITN responds to comments filed by various parties with respect to two issues which affect HITN and all similarly-situated distance learning educators, i.e., the proposed cap on the number of applications which can be filed by nonlocal applicants, and the proposed change with respect to the accreditation of receive sites. In support whereof, the following is submitted.

Application Caps

Only two of the commentors in this proceeding supported the Commission's proposal to adopt a cap on the number of applications which could be filed in a window by an individual nonlocal ITFS entity.<sup>2</sup> The overwhelming number of commentors strongly opposed the

<sup>1</sup> Reply Comments were required to be filed by September 28, 1994. See *Order and Further Notice of Proposed Rulemaking*, FCC 94-148, released July 6, 1994. Consequently, the HITN Reply Comments are timely filed.

<sup>2</sup> These parties are the Educational Parties (American Council on Education, American Association of Community Colleges, Arizona Board of Regents for Benefit of the University of Arizona, Association for Higher Education, California State University-

adoption of this new measure, with good reason. First, as HITN noted in its comments, this proposal is discriminatory on its face against National educational operators. Furthermore, the absolute comparative preference awarded to local applicants is sufficient deterrent to discourage a nonlocal applicant from applying large numbers of markets. Thus, the cap is not necessary to achieve the Commission's goal to enhance the efficiency of the processing of ITFS applications. Furthermore, the Commission is correct when it opines that "stringent caps could obstruct the rapid development of robust wireless cable systems that can vigorously compete in the rapidly expanding video marketplace." This beneficial implementation of the Commission's stated policy with respect to the development of the wireless cable industry far surpasses any possible harm created by "a number of applications (submitted) simply to bargain with other wireless cable entities seeking to construct a viable cable system." Order and Further Notice of Proposed Rulemaking ("Further Notice"), MM Docket No. 93-24, released July 6, 1994, at paragraph 16.<sup>3</sup>

#### Accreditation of Receive Sites

HITN supports the position of the Comments filed by North American Catholic Educational Programming Foundation, Inc.; Network

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Sacramento, Iowa Public Broadcasting Board, South Carolina Educational Television Commission, State of Wisconsin-Educational Communications Board, St. Louis Regional Educational and Public Television Commission, University of Maine System, University of Wisconsin System, and University System of the Ana G. Mendez Educational Foundation) and Central Texas Wireless TV, Inc.

<sup>3</sup> The Educational Parties seem to be proposing a type of preference for local applicants with respect to their proposal regarding no application cap for educational entities. This would clearly constitute a preference for educational entities. HITN would respond that a minority preference for ITFS applicants should be established prior to any award of a preference to educational entities, as the Educational Parties propose.

For Instructional TV, Inc.; and Shekinah Network (Joint Commentors) in this proceeding with respect to the issue of receive site accreditation. As these Joint Commentors point out, "accreditation applies to coursework, not locations." As the Joint Commentors, HITN and other distance learning experts who filed comments in this proceeding know from their substantial experience, bringing education to students at locations other than the school building itself will result in broader and better education in America, which many recent studies have shown is dearly needed. Imposing the proposed accreditation receive site requirement will not only add to the Commission's processing burden, it will stifle the expansion of education throughout this country through the use of ITFS technology.<sup>4</sup>

WHEREFORE, the foregoing premises considered, HITN respectfully requests that Commission consider the Reply Comments of HITN with respect to the formulation of any new regulations proposed to enhance the processing of ITFS applications.

Respectfully Submitted,

HISPANIC INFORMATION AND  
TELECOMMUNICATIONS NETWORK, INC.

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<sup>4</sup> As noted in HITN's Comments in this proceeding, the Commission has for years required nonlocal applicants to submit commitment letters on accredited school letterhead showing the school's affirmative commitment to act as a receive site.